***THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

WRIT PETITION NO : 23220 of 2004

% 29.12.2004

Between:

Labour Liberation Front, Regd.NO.4483, rep.by its President P.Narayana Swamy, Mahaboobnagar, Mahaboobnagar District.

... PETITIONER

AND

The State of Andhra Pradesh, rep.by its Prl.Secretary, Labour Department & 6 others.

...RESPONDENTS

! COUNSEL FOR THE PETITIONER: MR.PRATHIPATI VENKATESWARLU

^ COUNSEL FOR THE RESPONDENTS: G.P.FOR LABOUR

< Gist:

> Head Note:

? CITATIONS:

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23220 of 2004

Between:

Labour Liberation front, Regd. No. 4483, rep. by its President P. Narayana Swamy, S/o. P. Sesha Chary, Aged 43 Years,
R/o. 7-5-12, Venkateswara Colony, Mahaboobnagar, Mahaboobnagar District.

... PETITIONER

AND

-

1 The State of A.P., rep. by Prl. Secretary, Labour Department, Secretariat, Hyderabad.
2 The State of A.P., rep. by its Secretary, Home Department,

Secretariat, Hyderabad.
3 The Commissioner of Labour, A.P., Anjaiah Bhavan, R.T.C.X

Road, Hdyerabad.
4 The Asst. Commissioner of Labour, Mahaboobnagar,

Mahaboobnagar District.

5 The Director General of Police, A.P., Lakdikapool, Hyderabad.
6 The Superintending of Police, Mahaboobnagar,

Mahaboobnagar District.
7 The Station House Officer, Rural P.S., Mahaboobnagar,

Mahaboobnagar District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction more particularly one in the nature of Mandamus directing the respondents, to take immediate action concerning their departments in respect of criminal cases and violation of Labour Laws in the Suryalaxmi Cotton Spinning Mill situated at Mahaboobnagar, Mahaboobnagar Dist., after calling for records.

Counsel for the Petitioner: MR.PRATTIPATI VENKATESWARLU

Counsel for the Respondents: GP FOR LABOUR

The Court at the admission stage made the following :

ORDER:

In a way and in a sense, this writ petition demonstrates the extent to which the institutions of ancient origin as well as the concept of public interest litigation have become vulnerable. It also indicates the abyssal levels, to which the norms of journalism have drifted.

2. The petitioner claims to be a registered organization, with an object of espousing the causes of labourers. It filed the writ petition seeking a direction to the respondents, viz. the authorities of Labour and Police Departments, to take immediate action in respect of criminal cases filed against Suryalaxmi Cotton Spinning Mill, Mahaboobnagar, and violation of labour laws therein after calling for records. The basis or inspiration for filing this writ petition is said to be the items of news, published in various newspapers, during the months of November and December, 2004.

3. Two workers of the mill, referred to above, are said to have died in the year 1998. Investigation into the same is alleged to have been entrusted to the CBCID. In paragraph-6 of the affidavit, which constitutes an important portion of the pleading, it was stated as under:

> "It is further submitted that it is reported that two teenaged women workers of 16 years and 18 years by name Tirupathamma and Nirmalamma were raped and murdered in the year March, 1998. The investigation was entrusted to the CBCID Department, but no action is taken against the culprits. It is reported in the press that the relatives of the management were involved in that case and also at the same time the Jayendra Saraswathi who was the Peethadhipathi of Kanchi Kamakoti came to the Surya Laxmi Cotton Spinning mill and performed poojas and yagnas. The rumors came out as two teenage women workers in the mill were killed in the name of "Bali" (Andhra Jyothi Daily on 5.12.2004)."

Reference is also made to the items of news published in other newspapers. Clippings of the press reports referred to above are filed as material papers to the writ petition.

4 . The writ petition came up for admission on 15.12.2004. During the course of hearing, it was enquired from the learned counsel for the petitioner as to what was the basis and relevance for making reference to Sri Jayendra Saraswathi in this writ petition, and it was adjourned to 21.12.2004, to enable the deponent to appear. The deponent filed W.P.M.P(SR) No.127642 of 2004, seeking permission of the Court to delete the portion of the affidavit, extracted above. He also tendered unconditional apology for mentioning the name of Swamiji. On the next date of hearing, the attention of the learned counsel for the petitioner was drawn to Annexure-I to the writ petition, which reads as under:

1. "The petitioners organization is registered one with Regd.No.4483 and our organization is affiliated to Mahaboobnagar District Palamoori contract labour union.
2. The Jayendra Saraswathi who was the Peethadhipathi of Kanchi Kamakoti came to the Surya Laxmi Cotton Spinning mill and performed pujas and yagnas.
3. The police didn't register the crime and no post mortem of the dead body was conducted. The same is reported in the press [(1) Andhra Jyothi Daily on 17-11-2004, 5-12-2004 and 07-12-2004, 2) Eenadu Daily on 04-12-2004]".

In fact, the learned counsel, Sri Prathipati Venkateswarlu, was shocked and surprised on seeing this, and immediately made a request to the Court to permit him to withdraw the writ petition, after receiving instructions from his client. There should not have been any difficulty for this Court in acceding to his request. However, it is felt that a time has come, when the Court has to discourage the indiscriminate proceedings in the name of public interest litigation, and guard itself from being used as a tool by certain interested persons to gain popularity, or to create sensation. Time has also come, to express concern over the way in which institutions and persons of high reputation are sought to be maligned.

5. The petitioner claimed to itself, the credit for the various steps stated to have been initiated by it, before the organizations within and outside the country, with an object of ameliorating the conditions of workmen. Several instances are cited in an index. To that extent, nobody can have any grievance, and even if a handful of workers are benefited out of such proceedings or steps, the petitioner deserves to be congratulated and appreciated for it. However, this Court is compelled to observe that the only provocation for the petitioner to file this writ petition appears to be the recent unfortunate happenings in relation to a seer of an ancient, prestigious, glorious and reputed institution, with almost 2500 years of history. The petitioner made no secret of this and found it difficult to relate or connect the alleged causes, to the name, he has taken with impunity. When he was called upon to explain, he tendered apology and sought to delete the paragraph. To certain extent, the petitioner who appears to have been otherwise interested in the welfare of labourers was swayed away by the news items published in certain dailies and he did not want to lag behind in the unprecedented process of denigration of the religious institutions.

6. It is rather sad and sorrowful that an institution of such glory, that withstood foreign invasions, and social revolutions from time to time spread over past 25 centuries, is virtually targeted and persecuted in an organized manner, in an independent country. Not only individuals but also a section of institutions, such as, the State and Press, appear to be determined to be belittle and besmirch the Peetham. The perfidy caused to it has shocked almost everybody in the society, cutting across the religions and borders of the country. The role of the Courts, though indirect, is by no means insignificant. Proponents of human rights, fair play dignity to the individuals and institutions have maintained stoic silence. A powerful section is either

celebrating it or is watching it, with indifference. The issue appears to be having a greater dimension than investigation into a murder. That, however is a different aspect.

7. There are certain institutions in every country, which constitute their conscience and pride, and irrespective of the form of the Government, they are respected and revered. In doing so, the country and its people, in fact respect themselves. Even where any aberration occurs in such institutions, wise and prudent people make all efforts to address them in isolation and try to protect the institution, at all costs. It is only the unwise and shortsighted, that try to project the system or institution with reference to aberration. If at all anything, such measures indicate fall of moral and ethical standards. In the process, the institution has nothing to loose, but in the long run, the society will be heading towards self-destruction. The situation would be much more serious where the targeted institution is the conscious keeper of the society.

8. For example, few years ago, no less a personality than the Chief Justice of India, said at a meeting that there is considerable number of Judges whose reputation is not above board. This statement will certainly be a matter of concern for everyone, but can never constitute a justification to denounce the judiciary as a whole. Examples can be multiplied. Further, it is not uncommon that the institutions or persons of high reputation are subjected to virulent propaganda. One is required to be careful and cautious in forming opinions or acting on the basis of the same. Human ingenuity is so capable that it can make people to believe as true, what is in fact false, and *vice-versa*. It is for this reason that one has to reserve the opinions about others till a final adjudication or verification takes place.

9. In the recent history, we had an example. During the Rule of Sri Krishnadevaraya, one of the most celebrated kings of the time, a section of the family was successful in getting a verdict against the pillar of the dynasty; Mahamanthri Thimmarusu, by creating false evidence and get his eyes removed by way of punishment. It was too late for the king to repent, when the truth came out and what happened thereafter is a matter of history. Unfortunately, those who are in search of immediate fame, publicity or protection, do not draw any lessons from such instances. The amount of disrepute and sacrilege inflicted upon Sri Jayendra Saraswathi, as of now, is so

enormous, that it hardly has any comparables. Harshest possible words and expressions were used either directly or in innuendo. For persons who have grown to the level of distinguishing the body from the soul, this may be of little consequence. However, the entire episode certainly indicates the levels of mercury in the barometer of social and moral values.

10. Today, he is subjected to the similar treatment, as was Draupadi, in the Court of Kauravas. While some enjoyed the humiliation caused to her, others who were in a position to rescue her, remained silent by citing their own personal reasons or pleading excuses. It ultimately emerged that both the categories of the people had to pay the price. They lost their right to protest, when they were subjected to humiliation or injustice of a higher degree, at a later point of time.

11. The importance of spiritual organizations and institutions can by no means be underestimated in the matter of building and shaping a country, or for that matter, the society. Some times, attempts are made to depict the spiritualism as an antithesis to scientific thinking. However, if one reads what Albert Einsten, a scientist of the highest order said, it would be evident as to how shallow, such an approach, is. He observed,

> "I have made the Geetha and Sanskrit Literature, the main source of my inspiration and guidance for the purpose of scientific investigations and formation of my theories".

The contribution of such institutions in the field of character building and preaching of morals, irrespective of the religions, to which they belong, hardly needs any emphasis. Any attempt to denigrate them, would be a pointer towards the progression of the society towards ethical and moral bankruptcy. When such bankruptcy and degradation reaches a point, the very connotation of civilization needs to be redefined. It is trite that denouncement of an institution of high reputation and importance on the basis of motivated or unproved allegations would be suicidal to the society.

12. An expression which has gained considerable currency in the recent past is "Law will take its own course". With due deference to those who coined it or those who firmly believe in it, it can be said that it is not true, at least in part. For this adage

to become true, there has to be sincerity and honesty at all levels in those who are associated with administration of justice. The outcome of proceedings in law, particularly in criminal cases can be predicted with an element of objectivity and certitude, if only

a. the prosecuting agency presents the case honestly,

b) the witnesses depose truly,

c) the provisions of law are clear, and

d) the adjudicator is efficient and honest.

Lapse or deficiency on any of these aspects would have its own impact on the outcome of the case.

13. If the prosecution is to depend upon the whims and fancies of the prosecuting agency or the Government of the day, if the witnesses keep on changing their versions, if the law is framed or changed keeping certain individuals in view, and if the adjudicator is not up to the expected standards, the law will not take its own course. On the other hand, its course is determined by one or the several factors referred to above. The way in which cases foisted or withdrawn, particularly with the change of the Governments, the manner in which, the witnesses are coming forward, with conflicting versions, would illustrate phenomenon referred to above. The criminal legal system in the country has become so elastic and uncertain that persons can be put behind the bars for months or years together on the basis of unfounded allegations, whereas, those convicted for heinous crimes can be made to wander freely in the society by liberating them from jails, even before they have served the sentence. Much would depend upon the whims of those who control the system.

14. In the recent past, the freedom of the prosecuting agency, and that of the Courts, to deal with the cases before them freely and objectively, is substantially eroded, on account of the overactive or proactive stances taken in the presentations made by the print and electronic media. Once an incident involving prominent person or institution takes place, the media is swinging into action and virtually leaving very little for the prosecution or the Courts to examine the matter. Recently, it has assumed dangerous proportions, to the extent of intruding into the very privacy of

individuals. Gross misuse of technological advancements, and the unhealthy competition in the field of journalism resulted in obliteration of norms or commitment to the noble profession. The freedom of speech and expression which is the bed rock of journalism, is subjected to gross misuse. It must not be forgotten that only those who maintain restraint can exercise rights and freedoms effectively.

15. If the press clippings filed as material papers in this writ petition are examined, it indicates the miserable levels to which the glorious profession of journalism was brought to. In the edition of 17th November, 2004 of a Telugu daily, the heading of news item, loosely translated, reads "harassment to labourers and luxuries to Swami". The name of Sri Jayendra Saraswathi was taken and it was written "since last two decades the management is inviting Swamiji by incurring huge expenditure for performing poojas, and it is facing the criticism of "killing crows and feeding vultures". In another news item of 5th December, 2004, of the same daily, indiscriminate reference is made to Swamiji and others in the context of death of women which is said to have taken place in the year 1998. It continued its tirade against the mill in the subsequent news items, and wrote very nasty about it. Another vernacular daily went a bit further. In its District Edition of 4th December, 2004, it has put a picture of noose used to hang the criminals, around the sign board of Surya Laxmi Cotton Mills. In the news item, the name of Swami Jayendra Saraswathi is taken and reference is made to several irregularities said to have taken place in the mill. Even before the writ petition is filed, the petitioner appears to have informed the daily, and in their District Edition on 11th December, 2004, a news item was published that the petitioner is going to file a writ petition. Here again, the name of the seer was taken.

16. A section of the electronic medium has reduced the entertainment and journalism to nauseating levels. For instance, a local Telugu Channel conducted a quiz, in the last week. The viewers were given the option to choose 'Bakara' among the 4 choices. They are 1) Sushil Kumar Shinde 2) Jayendra Saraswathi 3) Uma Bharathi; and 4) the Cheetah, caught at Jubilee Hills. To say the least, the said news items and the presentations in the networks disclose the way of thinking or the standards set for themselves in the field of journalism, by those who are running the same. The persons who have contributed the news items and those who published them have forgotten basic values of life, leave alone that journalism. Unfortunately,

they are not rare exceptions.

17. At one stage, this Court thought of issuing notices to the concerned newspapers and the channel, directing them to show cause as to why the matter should not be referred to Press Council of India or any other concerned agencies. Two factors weighed with the Court, to give up the idea. One is that such a course of action is prone to be utilized for aggrandizement. The second is that, in the matters of this nature, effective results can be expected, if a proper message is conveyed, with the hope that wise counsel would prevail on the concerned. It they still pursue the same path, a day would not be too far when they would be shown their place in the society.

18. Freedom of speech and expression is a concept “deduced” (to adopt the words of Sri Soli Sorabji) by courts from the provisions of the Constitution of India. Though there is no direct provision in the constitution, the Courts, particularly the Supreme Court and High Courts recognized the necessity and importance of a free press, to sustain a healthy democracy and the corresponding right was carved out, through the process of interpretation. It was nourished and nurtured by the Courts by protecting it from the onslaughts, from time to time. However, with the passage of time, the freedom came to be grossly misused by certain agencies. Thanks to the contribution of a section of the press, such a sacred freedom was brought to nauseating levels. The observation of the Supreme Court recently in relation to publication of photographs of a cine heroin and her friend; in a daily, indicates the gravity. One has only to realize that the courts which have “deduced” freedom of speech and expression and nurtured it for the past few decades, may not find it difficult to redefine it, if it is found to have been misused by certain persons or institutions, to the point absurdity. It is the cumulative effect of the various instances of the type referred to above, that may bring about such a situation or rethinking in the entire matter, and if that happens, the society may have pay the proportionate price. The reason is that, freedom is always replaced by tyranny.

19. There is a broader angle to the matter. Though the Courts have rescued the situations many times, they have their own limitations. Much would depend on the values cherished by a society. If the state institutions and the members of the society do not identify for themselves, and follow the basic norms, much cannot be expected

from the Courts. Once the society does not feel any responsibility to itself, and does not follow the basic principles of morality, mutual respect and tolerance, no Courts can help the situation. A famous Jurist and an American Judge, 'Learned Hand', in one of his celebrated speeches on "Contribution of an Independent Judiciary" observed as under:

> "[T]hat a society so riven that the spirit of moderation is gone, no court can save; that a society where that spirit flourishes, no court need save; that in a society which evades its responsibility by thrusting upon the courts the nurture of that spirit, that spirit in the end will perish. What is the spirit of moderation? It is the temper which does not press a partisan advantage to its bitter end, which can understand and will respect the other side, which feels a unity between all citizens-real and not the factitious product of propaganda-which recognizes their common fate and their common aspirations-in a word, which has faith in the sacredness of the individual. If you ask me how such a temper and such a faith are bred and fostered, I cannot answer. They are the last flowers of civilization, delicate and easily overrun by the weeds of our sinful human nature; we may even now be witnessing their uprooting and disappearance until in the progress of the ages their seeds can once more find some friendly soil. But I am satisfied that they must have the vigor within themselves to withstand the winds and weather of an indifferent and ruthless world; and that it is idle to seek shelter for them in a courtroom. Men must take that temper and that faith with them into the field, into the market-place, into the factory, into the council-room, into their homes; they cannot be imposed; they must be lived. Words will not express them; arguments will not clarify them; decisions will not maintain them…"

He said about spirit of liberty almost similar tone. This aspect of the matter was clearly demonstrated in India, during Emergency.

20. The necessity for this Court to undertake this discussion arose because of the fact that the pleadings of the petitioner are nothing but the manifestation of the feelings of a section of society and unless they are curbed at a stage, they may grow to monostrous proportions. Though Courts or other institutions may express their view points, much would depend on how the society at large, choses to react. It is said that when Thomas Jefferson came out the Constituent Assembly, the waiters asked him as to what is the form of government, they have decided for America. His answer was "Democracy, provided you keep it". What applies to form of government, equality, if not with greater force applies to the norms and values in the society.

21. The petitioner sought for action against the mill, by alleging certain acts and omissions against it. It was fundamental for it to have impleaded the mill. It has not chosen to do so. The obvious reason is that it was more anxious to tarnish the image of a seer than to protect the interests of the labourers. The whole episode reveals

that the concept of public interest litigation evolved by Courts to protect public interest has been grossly misused by the petitioner.

22. For the foregoing reasons, the writ petition is dismissed. There shall be no order as to costs.

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L.NARASIMHA REDDY, J.

Dt.29th December, 2004.

Note:

L.R copy to be marked.

Pan/ko

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(One Fair copy to the Hon'ble Sri Justice L.Narasimha Reddy

(for his Lordship's kind perusal)

To

1 The Principal Secretary, Labour Department,
Secretariat, Hyderabad.
2 The Secretary, Home Department,

State of Andhra Pradesh, Secretariat, Hyderabad.
3 The Commissioner of Labour, A.P., Anjaiah Bhavan,

R.T.C.X Road, Hdyerabad.
4 The Asst. Commissioner of Labour, Mahaboobnagar,

Mahaboobnagar District.
5 The Director General of Police, A.P., Lakdikapool, Hyderabad.
6 The Superintendent of Police, Mahaboobnagar,

Mahaboobnagar District.
7 The Station House Officer, Rural P.S., Mahaboobnagar,

Mahaboobnagar District.

8 Two C.Cs to the Govt.Pleader for Labour,

High Court building, Hyderabad.(OUT)

9 Two C.D. Copies.

10 8 L.R. Copies.

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Ministry of Law, Justice and Company Affairs,

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12 The Secretary, A.P.Advocates' Association, Library,

High Court buildings, Hyderabad.

13 The Section Officer, PIL, High Court of A.P., Hyderabad.